



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

IBM Corporation
Intellectual Property Law
Dept. 917/Bldg. 006-1
3605 Highway 52 North
Rochester, MN 55901-7829

COPY MAILED

DEC 20 2005

OFFICE OF PETITIONS

In re Application :
Bates, et al. :
Application No. 09/759,784 : PATENT TERM ADJUSTMENT
Filed: January 12, 2001 :
Dkt. No.: ROC920000007US2 :

This letter is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 C.F.R. § 1.705)," filed September 28, 2005. This matter is being treated under 37 CFR 1.705(b).

Applicants argue that the Office will have failed to issue the patent within three years from the date the application was filed in accordance with 35 U.S.C. 154(b) and request an adjustment of 767 days. Applicants do not appear to contest any of the adjustments and/or reductions accorded to date.

Accordingly, applicants are advised that decision on the instant request for reconsideration of patent term adjustment ("PTA") under 37 CFR 1.705(d) is hereby held in abeyance subject to an issuance date being set by the Office of Patent Publications at which time the PTA will be routinely recalculated.

Applicants are given TWO (2) MONTHS from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within three years. A copy of this decision should accompany the request. Applicants may seek such consideration without payment of an additional fee. However as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Request for reconsideration on other bases must be timely filed and must include payment of the required fee.

Applicants are reminded that if an application is entitled to an adjustment under 35 USC 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded

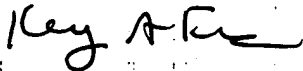
under 35 USC 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 USC 154(b)(1)(B) in determining whether periods of delay overlap under 35 USC 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than three years after the filing date of the application which overlap the

Applicants are further advised to submit a letter to the Office within two months of the issuance of the patent if, at the time of issuance of the patent, the appropriate adjustment under 37 CFR 1.702(b) has not been accorded.

In view thereof, at the time of Notice of Allowance the application is entitled to a patent term adjustment of 493 days.

The Office acknowledges receipt of the required fee of \$200.00 for an application for patent term adjustment.

This application is being forwarded to the Office of Patent Publication for processing into a patent. Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.



Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy